

MDR Tracking Number: M5-05-2367-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 9-27-04.

This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision on M5-05-0352-01 of March 17, 2005 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 4-15-05. An Order was rendered in favor of the Requestor. The Requestor appealed the Order to an Administrative Hearing because the work hardening services were preauthorized. The amount to be reimbursed must be recalculated.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 9-22-03 through 9-25-03.

Dates of service 10-17-03, 11-26-03, 12-09-03 and CPT code 97140 on 12-17-03 were withdrawn by the requestor in letters dated 3-15-05. They will not be a part of this review.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The physical medicine service, office visit established patient, therapeutic procedures, neuromuscular reeducation and ultrasound from 10-14-03 through 12-18-03 **were found** to be medically necessary. The physical medicine service, office visit established patient, therapeutic procedures, neuromuscular reeducation, ultrasound and paraffin bath from 1-6-04 through 2-19-04 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. **The amount for the medical necessity services is \$1,235.97.**

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to

be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 1-14-05, the Medical Review Division submitted a Notice to the requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT code 99213-25 for 9-29-03, 9-30-03, 10-02-03, 10-7-03, 10-8-03, 10-9-03, 10-13-03, 10-21-03, 10-22-03, 10-24-03, 10-27-03, 10-28-03, 10-30-03, 11-4-03, 11-5-03, 11-6-03, 11-10-03, 11-11-03, 11-13-03, 11-19-03, 11-20-03, 11-24-03, 11-25-03, 12-1-03, 12-2-03, 12-4-03, 12-8-03, 1-6-04, 1-12-04, 1-13-04, 1-15-04 was denied as "N" - not appropriately documented and "880-134" - Charge denied due to lack of sufficient documentation of services rendered 100%. Requestor did not submit relevant documentation to support service rendered per 133.307(g)(3)(B).

**Reimbursement is not recommended.**

CPT code 97110 for 9-29-03, 9-30-03, 10-2-03, 10-7-03, 10-8-03, 10-9-03, 10-13-03, 10-21-03, 10-22-03, 10-24-03, 10-28-03, 10-30-03, 11-4-03, 11-5-03, 11-6-03, 11-10-03, 11-11-03, 11-13-03, 11-19-03, 11-20-03, 11-24-03, 11-25-03, 11-25-03, 12-1-03, 12-2-03, 12-4-03, 12-8-03, 1-6-04, 1-12-04, 1-13-04, 1-15-04 was denied as N - not appropriately documented or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. **Reimbursement is not recommended.**

CPT code 97112 for 9-29-03, 9-30-03, 10-2-03, 10-7-03, 10-8-03, 10-9-03, 10-13-03, 10-21-03, 10-22-03, 10-24-03, 10-27-03, 10-28-03, 10-30-03, 11-4-03, 11-5-03, 11-6-03, 11-10-03, 11-11-03, 11-13-03, 11-19-03, 11-20-03, 11-24-03, 11-25-03, 12-2-03, 12-4-03, 12-8-03, 1-6-04, 1-12-04, 1-13-04, 1-15-04 was denied as "N" - not appropriately documented and "880-134" - Charge denied due to lack of sufficient documentation of services rendered 100%. Requestor did not submit relevant documentation to support level of service per 133.307(g)(3)(B).

**Reimbursement is not recommended.**

CPT code 97035 for 9-29-03, 9-30-03, 10-2-03, 10-21-03, 10-22-03, 10-24-03, 10-27-03, 10-28-03, 11-4-03, 11-6-03, 11-19-03, 11-20-03 and 11-25-03 was denied as "N" - not appropriately documented and "880-134" - Charge denied due to lack of sufficient documentation of services rendered 100%. Requestor did not submit relevant documentation to support service rendered per 133.307(g)(3)(B). **Reimbursement is not recommended.**

Neither the carrier nor the requestor provided EOB's for CPT code 99455 VR for dates of service 10-15-03 and 11-3-03. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). Therefore review will be per 134.202(e)(6). **Recommend reimbursement of \$100.00 (\$50.00 X 2 DOS).**

CPT code 97010 for 11-6-03 was denied as "N" - not appropriately documented and "880-134" – Charge denied due to lack of sufficient documentation of services rendered 100%. The requestor did not submit medical notes to support service rendered. The Trailblazer Local Coverage Determination (LCD) states that code 97010 "is a bundled code and considered an integral part of a therapeutic procedure(s). Regardless of whether it is billed alone or in conjunction with another therapy code, additional payment will not be made. Payment is included in the allowance for another therapy service/procedure performed. **Reimbursement is not recommended.**

CPT code 97140 for 11-20-03 was denied as "N" - not appropriately documented and "880-134" – Charge denied due to lack of sufficient documentation of services rendered 100%. Requestor did not submit relevant documentation to support service rendered per 133.307(g)(3)(B). **Reimbursement is not recommended.**

CPT code 99080-73 for 11-25-03 was denied as "N" - not appropriately documented and "880-134" – Charge denied due to lack of sufficient documentation of services rendered 100%. Requestor did not submit relevant documentation to support level of service per 133.307(g)(3)(B). **Reimbursement is not recommended.**

The carrier denied CPT Code 99080-73 on 12-18-03 and 1-19-04 with a V for unnecessary medical treatment, however, the TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. **Recommend reimbursement of \$30.00.**

The work hardening services from 1-16-04 through 2-13-04 with a "U" or a "V" for unnecessary medical treatment. These services were preauthorized, therefore this is an incorrect denial code. In accordance with Rule 134.600 (h) (4), the requestor provided a copy of the preauthorization letter dated 1-15-04 which authorizes 20 visits of work hardening. This service was rendered from 1-16-04 through 2-13-04. Rule 133.301 (a) states "the insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatments (s) and/or service (s) for which the health care provider has obtained preauthorization under Chapter 134 of this title." Therefore, reimbursement is at the non-CARF rate according to 134.202 (e)(5)(A)(i) at \$51.20 per hour. A referral will be made to Compliance and Practices for this violation of the Rules. **Reimbursement is recommended in the amount of \$7,475.20.**

This Amended Findings and Decision is hereby issued this 13<sup>th</sup> day of May, 2005.

Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$8,841.17 from 10-14-03 – 2-13-04 outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Amended Decision and Order is hereby issued this 13<sup>th</sup> day of May, 2005.

Manager, Medical Necessity Team  
Medical Dispute Resolution  
Medical Review Division

Enclosure: IRO decision

AMENDED: 5/10/05  
December 8, 2004

Texas Workers Compensation Commission  
MS48  
7551 Metro Center Drive, Suite 100  
Austin, Texas 78744-1609

**NOTICE OF INDEPENDENT REVIEW DECISION**  
**Amended Determination D 5/10/05**

**RE: MDR Tracking #: M5-05-0352-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor: Angela Upchurch, DC**  
**Respondent: American Casualty Company c/o Burns Anderson Jury & Brenner**  
**MAXIMUS Case #: TW04-0485**

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the MAXIMUS external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The MAXIMUS chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### **Clinical History**

**This case concerns a female who sustained a work related injury on 3/\_\_/02. The patient reported that while at work she sustained a repetitive motion injury to her right wrist. An EMG/NCV performed on 7/9/03 indicated carpal tunnel syndrome of the right wrist and no other neuropathy in relation to polyneuropathy, mononeuropathy and/or primary muscle disease was detected. The diagnosis for this patient's condition included carpal tunnel right wrist. On 9/8/03 the patient underwent a right carpal tunnel release. Following surgery treatment for this patient's condition included therapeutic procedures, neuromuscular reeducation, ultrasound, work hardening and paraffin baths.**

### **Requested Services**

**Physical Medicine Service, physical performance test 97750, office visit established patient 99213, therapeutic procedures 97110, neuromuscular reeducation 97112, ultrasound 97035, and paraffin bath 97018 from 10/14/03 through 2/19/04.**

Documents and/or information used by the reviewer to reach a decision:

#### *Documents Submitted by Requestor:*

1. Medical Analysis 12/27/03
2. EMG/NCV report 7/9/03
3. Operative Report 9/8/03
4. Review of Medical History and Physical Exam 9/8/04
5. Impairment Rating 9/8/04
6. Work And Accident Clinic Daily Notes 9/19/03 – 2/19/04
7. Work Hardening Daily Activities 1/19/04 – 2/6/04

#### *Documents Submitted by Respondent:*

1. Same as above.

### **Decision**

The Carrier's denial of authorization for the requested services is partially overturned.

### **Rationale/Basis for Decision**

The MAXIMUS chiropractor reviewer noted that this case concerns a female who sustained a work related injury to her right wrist on 3/20/02. The MAXIMUS chiropractor reviewer indicated that the

patient underwent carpal tunnel release surgery on 9/8/03 followed by therapy. The MAXIMUS chiropractor reviewer explained that ten weeks of postoperative therapy is the standard of care. The MAXIMUS chiropractor reviewer noted that the patient initially made progress in pain reduction up until early December of 2003. The MAXIMUS chiropractor reviewer explained that the patient remained at the same pain level there after. The MAXIMUS chiropractor reviewer also explained that after two weeks of no change in pain level, care is no longer medically necessary. The MAXIMUS chiropractor reviewer noted that the patient participated in a work hardening program. The MAXIMUS chiropractor reviewer explained that the work hardening program was focused on strengthening the whole body and not the injured wrist. The MAXIMUS chiropractor reviewer explained that by 12/18/03 the patient had plateaued and was not improving with treatment rendered. Therefore, the MAXIMUS chiropractor consultant concluded that the physical medicine service, office visit established patient 99213, therapeutic procedures 97110, neuromuscular reeducation 97112, and ultrasound 97035 from 10/14/03 through 12/18/03 were medically necessary to treat this patient's condition.

However, the MAXIMUS chiropractor consultant further concluded that the physical medicine service, office visit established patient 99213, therapeutic procedures 97110, neuromuscular reeducation 97112, ultrasound 97035, and paraffin bath 97018 from 1/6/04 through 2/19/04 were not medically necessary to treat this patient's condition.

Sincerely, MAXIMUS, Elizabeth McDonald, State Appeals Department